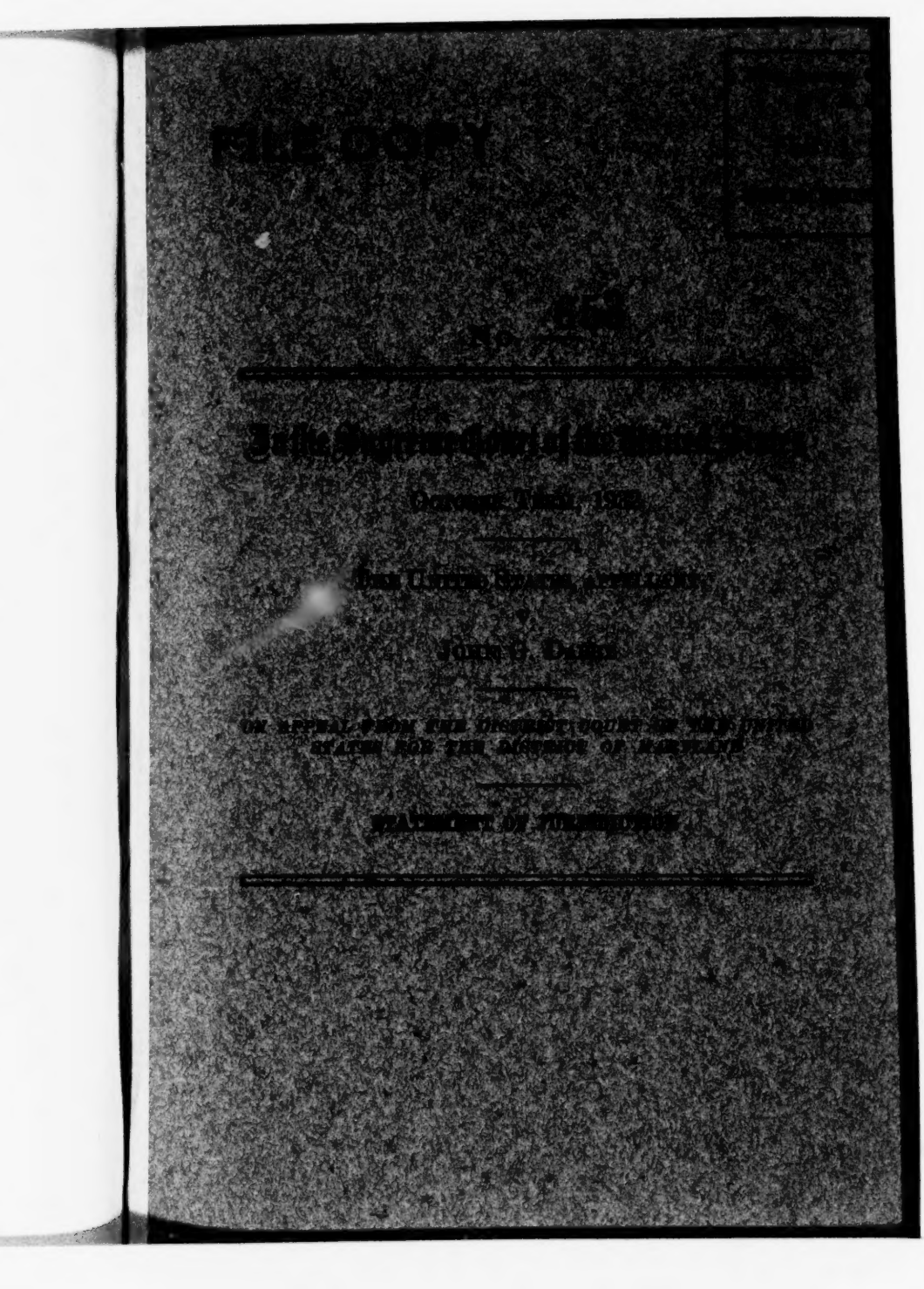

In the Supreme Court of the United States

OCTOBER TERM, 1932

No. ——

THE UNITED STATES, APPELLANT

v.

JOHN G. DARBY

ON APPEAL FROM THE DISTRICT COURT OF THE UNITED STATES FOR THE DISTRICT OF MARYLAND

STATEMENT OF JURISDICTION

In compliance with Rule 12 of this Court, appellant submits herewith its statement showing the basis of the jurisdiction of this Court to entertain the appeal in the above-entitled cause:

A

STATUTES

The statutory jurisdiction of this Court to review by direct appeal the order here complained of is conferred by the Act of March 2, 1907, c. 2564, 34 Stat. 1246 (U. S. C., Title 18, Sec. 682), otherwise

known as the Criminal Appeals Act, and by Section 238 of the Judicial Code as amended by the Act of February 13, 1925.

B

DATES OF ORDER AND APPLICATION FOR APPEAL

The order of the District Court was entered December 7, 1932. An application for appeal was filed 31st December, 1932, and allowed 31st December, 1932.

C

NATURE OF THE CASE

This indictment consists of sixteen counts, charging eight offenses of making false entries in the books of the Montgomery County National Bank of Rockville, Maryland, in violation of Section 5209, Revised Statutes, as amended. (U. S. C., Title 12, Sec. 592.) The odd-numbered counts charge that the entries were made with intent to injure and defraud the bank. The even-numbered counts charge an intent to deceive the officers of the bank and the Comptroller of the Currency. The false entries charged consisted of entering in the Discount Register the name of Mrs. Bessie D. Darby as comaker or endorser, when the defendant knew that the signature of her name on the notes in question was a forgery. Defendant demurred, and the Court sustained the demurrer on the ground that the offense charged in each count was

not committed "where, as here, the transaction entered, actually occurred and was entered exactly as it occurred." The District Court has certified that its decision in this case is based on its construction of the statute cited above.

D

CASES SUSTAINING JURISDICTION

The following decisions are believed to sustain the jurisdiction of this Court:

United States v. *Katz,* 271 U. S. 354.
United States v. *Fruit Growers Express Co.,* 279 U. S. 363.
United States v. *Farrar,* 281 U. S. 624.
United States v. *Sprague,* 282 U. S. 716.

Respectfully submitted.

THOMAS D. THACHER,
Solicitor General.

DECEMBER, 1932.

U. S. GOVERNMENT PRINTING OFFICE: 1933